REMARKS

This Response is submitted in reply to the final Office Action mailed on July 18, 2008. A one-month extension of time fee is submitted herewith. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-697 on the account statement.

Claims 1 and 3-6 are pending in the application. Claim 2 was previously canceled. In the Office Action, Claim 4 is rejected under 35 U.S.C. §112; Claim 5 is rejected under 35 U.S.C. §102(b), and Claims 1, 3 and 4 are rejected under 35 U.S.C. §103(a). In response, Applicants have amended Claims 1, 4 and 5. The amendments do not add new matter and are supported in the specification at page 5, lines 6-10. In view of the amendments and for at least the reasons provided below, Applicants request that the rejections should be withdrawn.

In the Office Action, Claim 4 is rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for treating and/or improving insulin resistance for increasing insulin sensitivity or treating dyslipidemia, does not reasonably provide enablement for preventing dyslipidemia. In response, Applicants remove "preventing" from Claim 4.

Accordingly, Applicants respectfully request that the rejection of Claim 4 under 35 U.S.C. §112, first paragraph, be withdrawn.

In the Office Action, Claim 5 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,972,399 to Lapré, et al. (*"Lapre"*). Amended independent Claim 5 recites a method for treating and/or improving insulin resistance which comprises administering an effective amount of a composition comprising an acetogenic fibre, wherein the acetogenic fibre is lactulose, soybean fibre, soy fibre or a mixture thereof. Applicants respectfully submit that *Lapre* fails to disclose or suggest every element of Claim 5.

Lapre fails to disclose or suggest a composition comprising an acetogenic fibre, wherein the acetogenic fibre is lactulose, soybean fibre, soy fibre or a mixture thereof as required, in part, by Claim 5. Instead, *Lapre* teaches crosslinkable polysaccharides suitable for the invention including alginate, alginic acid, pectin, pectinic acid, pectinate, pectate, polygalacturonic acid, carrageenan, crosslinkable cellulose and derivatives thereof, xanthan gum, agar, crosslinkable starch and crosslinkable guar gum. See, *Lapre*, column 7, lines 60-67. In fact, the Office Action

cites "pectin" as evidence that *Lapre* recites acetogenic fiber of Claim 5. See, Office Action, page 8, lines 9-13. However, as currently amended, Claim 5 requires that the acetogenic fibre be lactulose, soybean fibre, soy fibre or a mixture thereof. Therefore, *Lapre* never teaches or suggests any of the above acetogenic fibers of Claim 5.

Lapre also fails to disclose or suggest a method for treating and/or improving insulin resistance which comprises administering an effective amount of a composition comprising an acetogenic fibre as required, in part, by Claim 5. By contrast, *Lapre* teaches a food that comprises a core and a coating that substantially reduces the core's glycemic response. See, *Lapre*, column 6, lines 43-45. *Lapre* never teaches or suggests that its coating can treat and/or improve insulin resistance. Rather, *Lapre* teaches that the components of the coating can also have a therapeutic effect for individuals suffering from diabetes, hypoglycemia, or glycogen storage disease. See, *Lapre,* column 7, lines 3-5. The coating accomplishes this by preventing an initial surge in blood glucose level after consumption of the core carbohydrate product and promoting, instead, a slower glucose release rate over an extended time. See, *Lapre*, column 7, lines 5-9. Therefore, besides not even being directed to a method for treating and/or improving insulin resistance, the coating in *Lapre* affects only the properties of the core it covers rather than affecting insulin resistance in the entire body.

In the Office Action, Claims 5 and 6 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,462,029 to Eliaz ("*Eliaz*"). Similar to *Lapre*, *Eliaz* fails to disclose or suggest a composition comprising an acetogenic fibre, wherein the acetogenic fibre is lactulose, soybean fibre, soy fibre or a mixture thereof as required, in part, by independent Claim 5. In fact, the Office Action cites modified pectin as evidence of acetogenic fiber. See, Office Action, page 9, lines 20-21. However, as currently amended, Claim 5 requires that the acetogenic fibre be lactulose, soybean fibre, soy fibre or a mixture thereof. Therefore, *Eliaz* never teaches or suggests any of the above acetogenic fibers of independent Claim 5.

Accordingly, Applicants respectfully request that the rejections of Claims 5 and 6 under 35 U.S.C. §102(b) be withdrawn.

In the Office Action, Claims 1, 3 and 4 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Lapre* in view of Felter, et al (entry for wild carrot, King's American Dispensatory, 1898, cited in PTO-892) ("*Felter*"). In the Office Action, Claims 1 and 3 are

rejected under 35 U.S.C. §103(a) as also being unpatentable over *Eliaz* in view of *Felter*. Applicants submit that the cited references, alone of in combination, fail to disclose or suggest every element of the present claims.

As summarized above, primary references *Lapre* and *Eliaz* fail to disclose or suggest a composition comprising an acetogenic fibre, wherein the acetogenic fibre is lactulose, soybean fibre, soy fibre or a mixture thereof as required, in part, by independent Claim 1. Instead, as stated in the Office Action, both *Lapre* and *Eliaz* teach use of pectin, an ingredient not recited in amended independent Claim 1. See, Office Action, page 8, lines 9-13 and page 9, lines 20-21.

Applicants also submit that secondary reference *Felter* fails to remedy the deficiencies of *Lapre* and *Eliaz*. As stated in the Office Action, *Felter* teaches that pectin is found universally scattered over the vegetable kingdom in many fruits, roots, etc., and may be obtained from the juice of all fruits by the same process, including juice of the carrot root. See, Office Action, page 12, lines 15-18. As such, the Office Action relies on *Felter* to teach carrot pectin, an admitted deficiency of *Lapre* and *Eliaz*. See, Office Action, page 12, line 14 and page 13, line 13. Therefore, *Felter* also fails to disclose or suggest a composition comprising an acetogenic fibre, wherein the acetogenic fibre is lactulose, soybean fibre, soy fibre or a mixture thereof as required, in part, by independent Claim 1.

Accordingly, Applicants respectfully request that the rejections of Claims 1, 3 and 4 under 35 U.S.C. §103(a) be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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